

§ 131E-97.3. Confidentiality of competitive health care information.

(a) For the purposes of this section, competitive health care information means information relating to competitive health care activities by or on behalf of hospitals and public hospital authorities. Competitive health care information does not include any of the information hospitals and ambulatory surgical facilities are required to report under G.S. 131E-214.12. Competitive health care information shall be confidential and not a public record under Chapter 132 of the General Statutes; provided that any contract entered into by or on behalf of a public hospital or public hospital authority, as defined in G.S. 159-39, shall be a public record unless otherwise exempted by law, or the contract contains competitive health care information, the determination of which shall be as provided in subsection (b) of this section.

(b) If a public hospital or public hospital authority is requested to disclose any contract which the hospital or hospital authority believes in good faith contains or constitutes competitive health care information, the hospital or hospital authority may either redact the portions of the contract believed to constitute competitive health care information prior to disclosure, or if the entire contract constitutes competitive health care information, refuse disclosure of the contract. The person requesting disclosure of the contract may institute an action pursuant to G.S. 132-9 to compel disclosure of the contract or any redacted portion thereof. In any action brought under this subsection, the issue for decision by the court shall be whether the contract, or portions of the contract withheld, constitutes competitive health care information, and in making its determination, the court shall be guided by the procedures and standards applicable to protective orders requested under Rule 26(c)(7) of the Rules of Civil Procedure. For the purposes of this section, competitive health care information includes, but is not limited to, contracts entered into by or on behalf of a public hospital or public hospital authority to purchase a medical practice. Before rendering a decision, the court shall review the contract in camera and hear arguments from the parties. If the court finds that the contract constitutes or contains competitive health care information, the court may either deny disclosure or may make such other appropriate orders as are permitted under Rule 26(c) of the Rules of Civil Procedure.

(c) Nothing in this section shall be deemed to prevent an elected public body, in closed session, which has responsibility for the hospital, the Attorney General, or the State Auditor from having access to this confidential information. The disclosure to any public entity does not affect the confidentiality of the information. Members of the public entity shall have a duty not to further disclose the confidential information. (1993 (Reg. Sess., 1994), c. 570, s. 10; 2001-516, s. 5; 2007-508, s. 8.5; 2013-382, s. 10.4.)